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June 28, 2011

By Facsimile and SDNY CM/ECF

The Hon. John G. Koeltl  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: *Ekman & Co. AB. v. Graphic Paper, Inc.*  
(Case No. 10 CV 8110)

Dear Judge Koeltl:

We are counsel to interpleader defendant U.S. Bank National Association (“US Bank”) in the above-referenced action. On May 3, 2011, Your Honor entered an order, directing that all discovery in this case be completed by August 26, 2011 (the “Scheduling Order”). For the reasons set forth below, US Bank requests an extension of the discovery cut-off until September 28, 2011, or, in the alternative, an order compelling plaintiff/interpleader defendant Ekman & Co. AB. (“Ekman”) to appear for a deposition on dates certain in July 2011. Accordingly, pursuant to paragraph 2(A) of Your Honor’s Individual Practices and Local Civil Rule 37.2, I write to request an informal conference to address U.S. Bank’s request.

As Your Honor may recall, at the time the parties appeared for the scheduling conference on April 28, 2011, both, Ekman and defendant/interpleader plaintiff Graphic Paper, Inc. (“Graphic”) insisted on a *60 day* discovery schedule and vigorously opposed US Bank’s request for a *six month* discovery schedule. Despite its insistence on a short discovery schedule, Ekman has since informed US Bank that (i) Mr. Hans Tidebrandt and Ms. Johanna Segerberg (the “Ekman Witnesses”) will not travel to the United States for their depositions; (ii) the Ekman Witnesses are not available for their depositions, even in Sweden, their place of residence, until

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mid-August; and (iii) Ekman's counsel, Mr. Anthony Costantini, is not available from June 29 through July 12, 2011.<sup>1</sup>

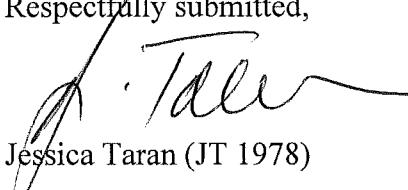
Given the Ekman Witnesses' unavailability until mid-August, the significance of their testimony, and the likelihood that they may identify additional information that US Bank will need time to explore before the expiration of the discovery period, US Bank respectfully contends that an extension of the discovery cut-off until September 28, 2011, is necessary. The unfairness to US Bank is highlighted by the fact that US Bank had initially requested a longer discovery period, only to be rebuffed by Ekman, which now maintains that it will not make its witnesses available during the abbreviated discovery period it had suggested.

An extension of the discovery period is also warranted by US Bank's inability to depose Graphic until after July 12, 2011, in order to accommodate Mr. Costantini's personal schedule. Moreover, counsel for third party Paper Max, Inc., located in California, has advised U.S. Bank that its witness, also, is not available until August.

Prior to filing this letter, US Bank has conferred with the parties. In light of the obvious scheduling conflicts, Graphic consents to the extension proposed by US Bank. Ekman's counsel has agreed to an extension of the discovery period until September 20, 2011 -- an extension of three weeks even though Ekman's unavailability is effectively delaying the discovery by *six* weeks -- but has not agreed to a further extension. Ekman's insistence on a three week extension only is manifestly unfair given that Ekman is the engine of this delay and also the party who had insisted on a shorter discovery period.

To the extent that the Court is not inclined to grant the extension of the discovery period, US Bank respectfully requests that the Court direct the Ekman Witnesses to appear for their depositions on July 18, 19, 20, or 21, 2011. In any event, for the reasons set forth above, US Bank respectfully requests that the Court schedule an informal conference to address the above.

Respectfully submitted,

  
Jessica Taran (JT 1978)

cc: Anthony J. Costantini, Esq. (by SDNY CM/ECF and e-mail)  
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<sup>1</sup> In an initial effort to resolve the scheduling difficulties, U.S. Bank's counsel proposed to Ekman that the witnesses be deposed during the week of July 25, 2011. Ekman's counsel then countered by suggesting the week of August 1, 2011. Ekman's counsel has since removed even those earlier dates from consideration.